

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

**ROGER DUANE ORTEGO AND
BRYAN F. GILL, JR., AS TRUSTEE
OF THE BANKRUPTCY ESTATE OF
ROGER DUANE ORTEGO**

* **CIVIL ACTION NO.: 07-CIV-9641**

* **JUDGE HAIGHT**

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By: 

MATTHEW SAKKAS, ESQ. (WMS3351)

150 Broadway, Suite 1307

New York, NY 100

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**ROGER DUANE ORTEGO AND * CIVIL ACTION NO.: 07-CIV-9641
BRYAN F. GILL, JR., AS TRUSTEE *
OF THE BANKRUPTCY ESTATE OF * JUDGE HAIGHT
ROGER DUANE ORTEGO *

VERSUS

MORAN TOWING CORPORATION

A decorative horizontal line consisting of a series of black asterisks (*).

FIRST AMENDING COMPLAINT

NOW INTO COURT, through undersigned counsel, come plaintiffs, **ROGER DUANE ORTEGO and BRYAN F. GILL, JR., AS TRUSTEE OF THE BANKRUPTCY ESTATE OF ROGER DUANE ORTEGO**, who respectfully request to amend their original complaint in the following respects:

1

By amending the caption to read as follows:

**“UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK”**

**ROGER DUANE ORTEGO AND * CIVIL ACTION NO.: 07-CIV-9641
BRYAN F. GILL, JR., AS TRUSTEE *
OF THE BANKRUPTCY ESTATE OF * JUDGE HAIGHT
ROGER DUANE ORTEGO *

VERSUS

**MORAN TOWING CORPORATION
AND SEABOARD BARGE
CORPORATION**

CONCLUSION

2.

By amending the introductory paragraph to read as follows:

“Plaintiffs, **ROGER DUANE ORTEGO** and **BRYAN F. GILL, JR., AS TRUSTEE OF THE BANKRUPTCY ESTATE OF ROGER DUANE ORTEGO**, by and through their attorney, complains against defendants, **MORAN TOWING CORPORATION**, a Connecticut corporation, and **SEABOARD BARGE CORPORATION**, a Connecticut corporation and a subsidiary of Moran Towing Corporation, and allege as follows:”

3.

By amending Paragraph V to read as follows:

“**V.**

MORAN TOWING CORPORATION, a Connecticut corporation with its principle place of business at 50 Locust Avenue, New Canaan, Connecticut, 06840-4737, and **SEABOARD BARGE CORPORATION**, a Connecticut corporation with its principle place of business at 50 Locust Avenue, New Canaan, Connecticut, 06840-4737 and a subsidiary of Moran Towing Corporation, are made defendant herein and are justly and truly indebted unto petitioners, **ROGER DUANE ORTEGO** and **BRIAN F. GILL, JR., AS TRUSTEE OF THE BANKRUPTCY ESTATE OF ROGER DUANE ORTEGO**, for such damages as will fully and fairly compensate petitioner, together with legal interest thereon from date of judicial demand until paid, and for all costs of these proceedings, for the following reasons, to-wit:”

4.

By amending Paragraph VI to read as follows:

“**VI.**

At all times pertinent hereto, **ROGER DUANE ORTEGO** was employed and assigned as a seaman aboard a special purpose vessel, *M/V The Texas*, which was owned and/or operated by

defendant, **MORAN TOWING CORPORATION** and/or **SEABOARD BARGE CORPORATION**, the employer of **ROGER DUANE ORTEGO**."

5.

By amending the Prayer to read as follows:

"WHEREFORE, PLAINTIFFS, **ROGER DUANE ORTEGO** and **BRIAN F. GILL, JR.**, AS TRUSTEE OF THE BANKRUPTCY ESTATE OF ROGER DUANE ORTEGO, PRAY THAT:

- I. Defendants, **MORAN TOWING CORPORATION** and **SEABOARD BARGE CORPORATION**, be duly cited to appear and answer this complaint and that defendants be served with a copy thereof;
- II. After due proceedings has and the lapse of all delays, there be judgment herein in favor of plaintiffs, **ROGER DUANE ORTEGO** and **BRIAN F. GILL, JR.**, AS TRUSTEE OF THE BANKRUPTCY ESTATE OF ROGER DUANE ORTEGO, and against the defendants, **MORAN TOWING CORPORATION** and **SEABOARD BARGE CORPORATION**, for such damages as will fully and fairly compensate plaintiffs, together with judicial interest from the date of judicial demand until paid, and for all costs of these proceedings; and
- III. This matter be tried as a jury matter.

PLAINTIFFS FURTHER PRAY for all orders and decrees necessary in the premises, and for full, general and equitable relief."

6.

Plaintiffs renew and reiterate each and every allegation contained in their original Complaint with the same force and effect as though the same was herein set forth at length.

Respectfully submitted:

SAKKAS & CAHN, LLP

By: 

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Attorneys for Plaintiffs, Roger Duane Ortego
and Bryan F. Gill, Jr., as Trustee of the
Bankruptcy Estate of Roger Duane Ortego

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ROGER DUANE ORTEGO ***

VERSUS

MORAN TOWING CORPORATION *

ORDER

CONSIDERING THE FOREGOING MOTION FOR LEAVE TO FILE FIRST AMENDING
COMPLAINT filed by Plaintiffs:

IT IS ORDERED that the Plaintiffs are hereby GRANTED leave to file their First
Amending Complaint.

THUS DONE AND SIGNED, this _____ day of _____, 2008, in
_____, New York.

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing Motion for Leave to File First Amending Complaint has been forwarded to the following counsel of record:

Mr. Jethro M. Eisenstein
PROFETA & EISENSTEIN
14 Wall Street, 22nd Floor
New York, NY 10005-2101
Counsel for Defendant, Moran Towing Corporation

by placing a copy of same in the United States Mail, first class, postage prepaid and properly addressed.

New York, New York, this 24th day of January, 2008.



MATTHEW SAKKAS